

fraud, and abuse within its programs and insurance delivery systems. Such sanctions include civil penalties and disqualification from the crop insurance program under the Federal Crop Insurance Act, 7 U.S.C. 1506(m); government wide debarment and suspension; and civil penalties and assessments under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801—31 U.S.C. 3812.

(b) The provisions of this subpart apply to all contracts and agreements to which FCIC is a party unless otherwise specifically provided for in this subpart, including those in which FCIC provides administrative expense reimbursement, premium subsidy, or reinsurance benefits.

(c) The provisions of this subpart are in addition to any other sanctions specifically provided in applicable contracts and agreements.

(d) This subpart is applicable to any act or omission by any affected party after October 14, 1993.

§ 400.452 Definitions.

For purposes of this subpart, a person means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a state, a political subdivision of a state, or any agency thereof.

§ 400.453 Exhaustion of administrative remedies.

All administrative remedies contained herein or incorporated herein by reference must be exhausted before Judicial Review in the United States Courts may be sought, unless review is specifically required by statute.

§ 400.454 Civil penalties.

(a) Any person who willfully and intentionally provides any materially false or inaccurate information to FCIC or to any approved insurance provider reinsured by FCIC with respect to an insurance plan or policy issued under the authority of the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501 *et seq.*) may be subject to a civil fine of up to an amount specified in § 3.91(b)(7) of this title and disqualification from participation in:

(1) The catastrophic risk protection plan of insurance and the noninsured

crop disaster assistance program for a period not to exceed two (2) years; or

(2) Any plan of insurance providing protection in excess of that provided under the catastrophic risk protection plan of insurance for a period not to exceed ten (10) years.

(b) FCIC may make the payment of a civil penalty under this section a prior condition for the issuance, renewal, restoration, or continuing validity of any crop insurance policy or other approval.

(c) FCIC may compromise, modify, settle, collect, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section whenever it considers it to be appropriate or advisable.

(d) If a director, officer, or agent of a corporation provides false or inaccurate information, they may be separately subject to the fine specified in paragraph (a) of this section without regard to any penalties to which the corporation may be subject.

(e) The liability of any person for any penalty under this subpart or any related charges arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other statute or provision of law.

(f) Proceedings under this § 400.454 will be in accordance with subpart H of 7 CFR part 1, "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes," by which the Manager, FCIC, shall initiate proceedings by filing a complaint with the Hearing Clerk, United States Department of Agriculture.

[58 FR 53110, Oct. 14, 1993, as amended at 60 FR 37323, July 20, 1995; 62 FR 40928, July 31, 1997]

§ 400.455 Governmentwide debarment and suspension (procurement).

(a) This section prescribes the terms and conditions under which persons or business entities may be debarred or suspended by FCIC from contracting with the Federal government.

(b) This section is in accordance with 48 CFR part 9, subpart 9.4 and 48 CFR

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part 409, subpart 409.4 and shall be applicable to all FCIC debarment and suspension proceedings undertaken pursuant to the Federal Acquisition Regulations, except that the authority to debar or suspend is reserved to the Manager, FCIC, or the Manager's designee.

(c) Any individual or entity suspended or debarred under the provisions of 48 CFR part 9, subpart 9.4 will not be eligible to contract with FCIC or be employed by or contract with any insurance company that sells or adjusts FCIC's crop insurance contracts or which company's crop insurance contracts are reinsured by FCIC. FCIC may waive this provision if it is satisfied that the insurance company has taken sufficient action to insure that the suspended or debarred entity or individual will not be involved, in any way, with FCIC or FCIC reinsured crop insurance contracts.

§ 400.456 Governmentwide debarment and suspension (nonprocurement).

(a) This section prescribes the terms and conditions under which individuals or entities may be debarred or suspended by FCIC from participation in Federal assistance and benefits under Federal programs and activities.

(b) This section, in accordance with 7 CFR part 3017, shall be applicable to all FCIC debarment and suspension proceedings other than those undertaken pursuant to the Federal Acquisition Regulations.

(c) Proceedings under this section are not applicable to determinations of eligibility under the provisions of the crop insurance contracts or determinations to be made under 7 CFR 400.454.

(d) The Manager, FCIC, shall be the debarring and suspending official for all debarment or suspension proceedings undertaken by FCIC under the provisions of 7 CFR part 3017.

§ 400.457 Program Fraud Civil Remedies Act.

(a) This section is in accordance with the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-U.S.C. 3831) which provides for civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, ficti-

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tious, or fraudulent claims or written statements to Federal authorities or to their agents.

(b) Proceedings under this section will be in accordance with subpart L of 7 CFR part 1, "Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986."

(c) The Director, Appeals and Litigation Staff, FCIC, or the Director's designee, is authorized to serve as Agency Fraud Claims Officer for the purpose of implementing the requirements of this section.

§ 400.458 Scheme or device.

(a) In addition to the penalties specified in this part, if a person has knowingly adopted a material scheme or device to obtain catastrophic risk protection, other plans of insurance coverage, or noninsured assistance benefits to which the person is not entitled, has evaded the provisions of the Federal Crop Insurance Act, or has acted with the purpose of evading the provisions of the Federal Crop Insurance Act, the person shall be ineligible to receive any and all benefits applicable to any crop year for which the scheme or device was adopted.

(b) A scheme or device may include, but is not limited to, creating or using another entity, or concealing or providing false information with respect to your interest in the policyholder, to evade:

(1) Suspension, debarment, or disqualification from participation in the program;

(2) The assignment of the non-standard classification system; or

(3) Ineligibility for a delinquent debt owed to FCIC or the insurance company.

[60 FR 37324, July 20, 1995]

§ 400.459 Indebtedness.

Any person who owes a debt to FCIC, or an approved insurance provider, arising from any program administered under the Act, and that debt is delinquent, will be ineligible to participate in all such programs until the debt is paid in full or the person enters into an agreement, acceptable to FCIC or the approved insurance provider, to repay